Table of Contents
IAB# SH2292874 & FO2305156

Table of Contents - Cont'd
IAB# SH2292874 & FO2305156

MISCELLANEOUS DOCUMENTS

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
A Tradition of Service

DATE: March 28, 2013
FILE NO:

OFFICE CORRESPONDENCE

FROM: BUDDY GOLDMAN, COMMANDER
FIELD OPERATIONS REGION I

TO: MICHAEL R. CLAUS, CAPTAIN
SPECIAL ENFORCEMENT BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number: SH2292874 / FO2305156 / IV2331056

Incident: Hit Shooting / Significant Force

Incident Date: July 21, 2011

Unit: Industry Station

Suspect: Juan Carlos Perdomo, MH/08-27-71

Involved Employees: Deputy Krystin Alfaro, #[redacted]
Deputy Roger Flores, #[redacted]

EFRC Date: March 14, 2013

The Executive Force Review Committee (EFRC) consisting of Commanders Buddy Goldman, David Fender, and Stephen Johnson met and reviewed the above case.

FORCE POLICY RELATING TO INCIDENT:

Law Enforcement officers may use deadly force in self-defense or in the defense of others, only when they reasonably believe death or serious physical injury is about to be inflicted upon themselves or others.

FINDINGS:

Deputies and police officer assigned to a multi-jurisdictional burglary task force were on surveillance at a storage facility on Washington Boulevard in the City of Los Angeles. They secured a storage unit pending the approval of a search warrant. They were directed by their supervisor to detain any persons who entered the storage unit. During the surveillance, they observed the suspect drive onto the facility and enter the storage unit they were surveilling. One of the deputies contacted the Los Angeles Police Department (LAPD) and requested uniformed officer presence to detain the suspect for receiving stolen property.

After waiting nearly ten minutes, they were concerned the suspect would leave prior to the arrival of LAPD, or the suspect would not stop his vehicle if a traffic stop was initiated resulting in a vehicle pursuit. Based on these factors, they decided to detain the suspect pending the arrival of LAPD uniformed officers. A deputy and an officer approached the suspect and identified themselves as law enforcement officers, as they attempted to detain the suspect.

The suspect was confrontational with the officers and ran away from the storage unit. Both officers entered into a foot pursuit after the suspect. The suspect began to scale a chain link fence when he was pulled down by one of the officers. A significant struggle ensued, which was witnessed by several citizens, resulting in serious injuries to both officers.

The suspect made repeated attempts to obtain the officers' firearms, which was also witnessed by several citizens. During the struggle and after being seriously injured, along with fearing for his life and the life of his partner, one of the officers fired four rounds from his pistol striking the suspect in the leg, arm, and abdomen.

The EFRC determined the force used to control the violently aggressive suspect was reasonable, necessary, and justified.

The EFRC deemed as **Founded** the allegation that the tactics used by Deputy Roger Flores were in violation of the Department's Manual of Policy and Procedures, Section(s) 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders (as it pertains to section 5-09/220.50, Foot Pursuits, and/or 5-06/105.00, Tactical Incidents), on or about July 21, 2011, while on duty Deputy Flores failed to conform to the work standards established for his position, when he failed to appropriately address a tactical dilemma and engaged a suspect when the suspect made no attempt to leave the location, and therefore required no immediate action; and/or engaged in a foot pursuit and tactical incident and failed to broadcast his actions; and/or failed to communicate and coordinate with assisting units, including uniformed Los Angeles Police Department personnel, in an effort to contain the area before attempting to subdue the suspect; and/or failed to utilize Department safety equipment, in particular, wearing a Departmental ballistic vest, and/or raid jacket, and/or possess handcuffs, and a handheld radio at the time he knew a wanted suspect was at the location and engaged in a tactical situation.

RECOMMENDATIONS:

Due to the injuries sustained by the subject in the incident and the numerous debriefings held by Captain Michael R. Claus, the EFRC recommended Deputy Roger Flores #[redacted] receive **No Discipline.**

The EFRC recommended that upon Deputy Flores' return to work he will attend the eight-hour LIFE class, and the eight-hour Tactics and Survival training (TAS I).

Additionally, the EFRC recommended the unit commander, Captain Michael R. Claus, conduct a tactical debriefing with the involved personnel regarding the circumstances of this incident.

Lastly, the EFRC recommended the Department's Field Operations Support Services meet with the Department's Training and Major Crimes Bureau to organize proper training for undercover and plain clothes officers. This training is to be formalized in a new policy section governing all personnel on the Department who could be involved in this activity.

BG:JER:jer



Leroy D. Baca, Sheriff

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



March 29, 2013

Deputy Roger Flores, #

Dear Deputy Flores:

You are hereby notified that the below listed violations in this case are founded, but there will not be any discipline imposed.

An investigation under IAB File Number 2331056, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Department's Manual of Policy and Procedures, Sections 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders (as it pertains to section 5-09/220.50, Foot Pursuits, and/or 5-06/105.00, Tactical Incidents), on or about July 21, 2011, while on duty you failed to conform to the work standards established for your position, when you failed to appropriately address a tactical dilemma and engaged a suspect when the suspect made no attempt to leave the location, and therefore required no immediate action; and/or engaged in a foot pursuit and tactical incident and failed to broadcast your actions; and/or failed to communicate and coordinate with assisting units, including uniformed Los Angeles Police Department personnel, in an effort to contain the area before attempting to subdue the suspect; and/or failed to utilize Department safety equipment, in particular, wearing a Departmental ballistic vest, and/or raid jacket, and/or possess handcuffs, and a handheld radio at the time you knew a wanted suspect was at the location and engaged in a tactical situation.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to determining this disciplinary action, the Executive Force Review Committee and I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding. If, however, you are currently on some type of authorized leave, or are otherwise incapacitated or unavailable, you may opt to contact your unit commander, in writing, and request that this matter be held in abeyance until such time as you are released by your physician, or are able to return to work.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

At the time of service of this letter of intent, you were provided with a copy of the material on which the discipline is based. If you are unable to access the information provided in the enclosed CD, you may contact Maggie Dixon, of Internal Affairs Bureau, at ([redacted]) [redacted]-[redacted], and arrange an appointment for assistance in this regard.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Timothy K. Murakami, Captain
Commander, Industry Station

MC:AEA:cj

c: Advocacy Unit
Employee Relations Unit
Chief Thomas Laing, Field Operations Region III
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2331056)



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JACQUELYN LACEY • Chief Deputy District Attorney
PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI • Director

February 14, 2012

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File No. 11-0500
L.A.S.D. File No. 011-08904-1499-055

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 21, 2011, non-fatal shooting of Jose Ruiz by Los Angeles County Sheriff's Department Deputy Roger Flores. It is our conclusion that Deputy Flores acted in lawful self-defense and defense of another.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this Office by Investigator Ray Lugo and Sergeant Joseph Ramirez. The District Attorney's Command Center was notified of the shooting on July 21, 2011, at approximately 3:15 p.m. The District Attorney Response Team (DART), comprised of Deputy District Attorneys Paul Nunez and James Garrison and District Attorney Senior Investigator [redacted] responded and was given a briefing and a walk-through of the scene. Compelled statements, if any exist, were not considered as part of this analysis.

FACTUAL ANALYSIS

On July 21, 2011, LASD Deputies Roger Flores, Krystin Alfaro and Irvine Police Department Officer [redacted] were assigned to a multi-jurisdictional burglary task force operating from the Industry Sheriff's Station. They were conducting an undercover surveillance of Unit [redacted] at the Downtown Mini-Warehouse located on Washington Boulevard in the City of Los Angeles, pending a search warrant that was being prepared by other members of the task force. Flores, Alfaro and [redacted] were all dressed in plain clothes.

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At approximately 12:30 p.m., Jose Ruiz drove up in a silver Toyota mini-van to Unit [redacted] Ruiz exited the van, opened the storage unit and walked inside. Deputy Flores instructed Deputy Alfaro to contact LAPD to advise them that they were undercover officers and needed a black and white patrol vehicle to detain a suspect at the location. They waited approximately 10 minutes for LAPD officers to arrive while Ruiz was inside the storage unit. Before LAPD officers arrived, Flores and [redacted] decided to contact Ruiz because they believed he was going to leave the location.

Deputy Flores approached the storage unit, displayed his badge, pointed his service weapon at Ruiz and instructed him to put his hands up. Ruiz replied "How do I know you are police officers?" Ruiz eventually put his hands up and began walking out of the storage unit. Flores ordered Ruiz to lie on the ground. Ruiz responded "Why?" and walked toward the front of the unit. Ruiz advanced toward Flores and [redacted] ignoring commands to get on the ground. As Ruiz reached the opening of the unit, he ran past Flores and [redacted] eastbound within the storage facility.[1]

Ruiz reached the northeast gate of the facility and tried to climb over a fence but got stuck on the razor wire at the top of the fence. Flores and [redacted] reached Ruiz and pulled him off the fence. Flores attempted to handcuff Ruiz, but was unsuccessful as Ruiz struggled to avoid being handcuffed by putting his arm under his body. During the struggle, Flores' service weapon fell out of his holster and onto the ground. Ruiz reached for the gun, but Flores was able to kick it away.

[redacted] pushed Ruiz away from Flores and Flores was able to retrieve and re-holster his weapon. Flores and [redacted] continued to try to subdue Ruiz without success. Flores described Ruiz as being "twice his size" estimating that he was over 6 feet tall and more than 200 pounds. Flores thought Ruiz would kill [redacted] first and then kill him. As the fight continued, Ruiz grabbed Flores' gun and it fell to the ground still in its holster. Ruiz tried to prevent Flores from retrieving his gun by putting his foot over it.

Flores saw that [redacted] was exhausted and knew he had to do something or they both would be killed. He reached for his gun with both hands. Ruiz kicked Flores' left leg as he reached for his gun. Flores believed his leg was broken as he fell to the ground. Flores told [redacted] to shoot Ruiz, but [redacted] told Flores that Ruiz had his hand on his gun. Flores was finally able to retrieve his gun from the ground and he shot Ruiz twice in the leg, however Ruiz continued to fight. Flores put his gun on Ruiz' chest and pulled the trigger but the gun misfired. Flores racked a round and shot Ruiz in the stomach.[2] Ruiz got up and began to walk away, but eventually sat down by the fence. Ruiz told Flores and [redacted] "I know who you guys are.

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[1] Deputy Alfaro had driven her vehicle outside the storage facility in case Ruiz jumped the fence. She was not involved in the subsequent use of force.

[2] Deputy Flores was carrying a Beretta model 92FS Centurion semiautomatic pistol. Ballistic evidence shows the weapon was fired four times.

This is not over." Flores called LAPD and advised that he had been involved in an officer involved shooting. LAPD officers arrived and handcuffed Ruiz.

Several witnesses from the Downtown Value Charter School, which is located across the street from the storage facility, witnessed the incident. They saw Ruiz fighting with Flores and as they were trying to handcuff him. Witness a staff member at the school, saw Flores and Ruiz struggle over Flores' gun and saw that Ruiz briefly had the gun in his hands which seemed to intensify the fight.

Ruiz survived his gunshot wounds and was charged in a 10 count complaint in case number BA387141. The counts include resisting arrest, battery on a police officer with injury, assault on a police officer with a deadly weapon and receiving stolen property. He is also charged with

CONCLUSION

California has well settled law that the use of deadly force in self-defense situations or in the defense of others is permissible if it reasonably appears to the person claiming the right of self-defense that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death. People v. Mercer (1962) 210 Cal.App.2d 153.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. California Criminal Jury Instructions 3470.

Where the peril is swift and imminent and the necessity for action is immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal. App. 2d 575.

The evidence examined shows that Deputy Flores and Officer tried to detain ~~Jorge~~ Jose Ruiz during a burglary/stolen property investigation. Ruiz attempted to flee and fought with Flores and when they tried to handcuff him. During the fight, Ruiz grabbed Flores' gun and had possession of the gun for a brief period. Flores believed that Ruiz was winning the fight and was going to kill and himself. Flores was able to retrieve his gun and shoot Ruiz which finally ended the fight. Deputy Flores was acting in fear for his life and the life of Officer when he responded with deadly force.



We conclude that Deputy Roger Flores acted in lawful self-defense and defense of another. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

JAMES GARRISON
Deputy District Attorney
(213) 974-3888

c: Deputy Roger Flores, #[redacted]